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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,556	01/22/2001	Terry Paul Drees	01704276	2455

7590

11/06/2002

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,556

Applicant(s)

DREES ET AL.

Examiner

Lynda M Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 20-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5. 6) ☐ Other: _____

DETAILED ACTION***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-19 in Paper No. 7 is acknowledged. The traversal is on the ground(s) that search and examination of claim Groups I, II, and III can be made together without serious burden to the Examiner. This is not found persuasive because the claims of Group II add additional elements (i.e., water resistant substrate and adhesive layers) not found in the subset of Group I. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper. With regard to the method claims of Group III, the search required for Group I and II is not required for Group III. As such, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. Claims 1, 5, 7, and 14 are objected to because of the following informalities: PETG needs to be written out as polyethylene terephthalate glycol. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claim 6 is indefinite because of the improper markush group. An example of a proper markush group is "wherein R is a material selected from the group consisting of A, B, C *and* D". See MPEP 2173.05(h).

Claim Rejections - 35 USC § 102

Art Unit: 1771

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3,5,8,13,14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckart et al., US 5,643,666.

The patent issued to Eckart et al., is directed to a laminate comprising an outer layer of transparent PETG copolyester, a decorative polymeric film having a high-resolution image printed thereon, and a backing layer (Abstract and Figure 1). Eckart et al., teaches that the backing layer is also prepared from PETG copolyester, preferably recycled PETG (Column 5, lines 5-8). In this instance, the backing layer corresponds to the Applicant's core layer of PETG and the outer layer of PETG corresponds to the overlay layer recited in claim 8. With respect to the low pressure limitations set forth in claims 3 and 16, Eckart et al., teaches bonding the laminate under pressures ranging from 100 psi to about 350 psi (Column 7, 10-16). Moreover, Eckart et al., also teaches that the pressures needed to thermoform various shapes are a function of temperature, the product shape, and the tools used to thermoform the laminate (Column 8, 7-12).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1771

7. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Min, US 6,093,473 in view of Eckart et al., US 5,643,666.

The patent issued to Min is directed to an abrasion resistant laminate comprising a multi-layer wear resistant top layer, a decorative layer, a core layer, and a polymeric substrate base layer (Abstract). The wear resistant layer may consist of an overlay sheet having abrasion resistant particles (Column 2, lines 55-60). The core layer may comprise one or more additional layers formed from fiberglass, polypropylene, polyester, nylon, or carbon fiber. Min further teaches that the additional layer may comprise resin impregnated woven or non-woven sheets (Column 3, lines 1-10). Min teaches the laminate may be assembled using either a high or low-pressure technique (Column 3, lines 34-52). In addition, Min teaches producing the decorative laminate using a continuous laminate press (example 2, Column 10, lines 20-34). Min incorporates as reference US patent 5,141,799 to Mehta that teaches forming the wear/abrasion resistant overlay by adding amorphous silica in the form of an aqueous slurry to the surface of a substrate (Column 6, lines 7-26). Alternatively, US patent 4,713,138 also incorporated as reference by Min discloses depositing a coating composition comprising resin and abrasion resistant mineral particles such as alumina on the surface of a decorative layer (Column 6, lines 40-52). Min teaches that having a printed or colored decorative layer that may or may not be treated with a melamine resin (Column 7, lines 25-30). Example 1 teaches a melamine formaldehyde impregnated overlay containing hard particles of alumina or silica (Column 10, lines 19-22).

Min fails to teach a core layer comprising PETG, but does disclose that the core layer can include one or more layers of a polyester material. In addition, Min also teaches that core layer

Art Unit: 1771

may have a sandwich arrangement comprising resin impregnated sheets and any one of the layer materials discussed above (Column 7, lines 59-63). The patent issued to Eckart et al., teaches sandwiching a decorative film layer between two layers of PETG co-polyester. With regard to the material and orientation limitations set forth in claims 6 and 7, Min teaches a sandwich orientation for the core layer using a variety of materials including layers of polyester, nylon or carbon fibers as well as woven or woven or non-woven sheets. Therefore, motivated to provide a decorative laminate having sufficient strength and durability, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the specific PETG copolyester taught by Eckart et al. to form the core layer in the decorative laminate of Min.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4,322,468

US 4,880,689

US 5,141,799

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070.

The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Application/Control Number: 09/767,556

Page 6

Art Unit: 1771

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Is 

November 4, 2002